IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.219 OF 2006

Baburao Appasaheb Nikhade & anr. ...Applicants.

V/s

The State of Maharashtra ...Respondent.
(Through the Sangli City
Police Station at C.R.
No.166/2005)

Mr. B.B. Shetye for the applicant.

Ms. S.U. Gajre, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 31st January, 2006

P.C:

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicants are arrested in connection with the offence punishable under sections 302, 201 read with section 34 of the Indian Penal Code. It is alleged that the applicants had assaulted the deceased as a result of his he succumbed to the injuries. The learned counsel for the applicants submits that the other accused have been released by this Court by order dated 9/1/2006. He submits that the applicants are seeking bail on the ground of parity.

3. According to the prosecution, the deceased had entered the shop where the present applicants and others were working as waiters and the deceased, according to the eye witnesses, was under the influence of liquor and he demanded that liquor should be served but refused to pay for the liquor and created commotion. The eye witness left the scene after the said commotion was started and did not witness the assault by the applicants. The another eye witness who is alleged to have seen the commission of the offence did not immediately report to the Police Station but his statement was recorded after a lapse of four days. The other accused have been released on bail. On account of these lacunae in the prosecution case, the present applicants who are also the waiters in the said restaurant, therefore, are entitled to be released on bail.

4. The applicants be released on bail in the sum of Rs 5000/- each with one or two sureties in the like amount each. They shall report to the Sangli Local Crime Branch once in a month.

5. Application is accordingly disposed of.

V.M. KANADE, J.